

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
XM Radio, Inc.	)	
Application for Special Temporary Authority	)	File No. SAT-STA-20010712-00063
to Operate Satellite Digital Audio Radio	)	
Service Complementary Terrestrial Repeaters	)	
	)	
	)	
	)	

**ORDER**

**Adopted: October 15, 2001**

**Released: October 15, 2001**

By the Chief, International Bureau:

1. By this Order, we modify on our own motion, pursuant to Section 1.113 of the Commission's rules,<sup>1</sup> our September 17, 2001 order granting XM Radio, Inc. (XM Radio) special temporary authority (STA) to operate Satellite Digital Audio Radio Service (SDARS) complementary terrestrial repeaters in the 2332.5-2345 MHz frequency band.<sup>2</sup> We also dismiss as moot a Petition for Reconsideration and Emergency Motion for Stay filed by the Wireless Communications Association International, Inc. (WCA).<sup>3</sup> As set forth below, in the *XM STA Order* we required XM Radio to coordinate operations with WCS licensees and provide certain information to the WCS licensees upon request. On reconsideration, we also require XM Radio to provide this information to Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) licensees as well.

2. In October 1997, the International Bureau authorized XM Radio to launch and operate two geostationary satellites to provide SDARS. XM Radio launched both satellites in early 2001. The Commission, in adopting service rules for SDARS, recognized the need for SDARS to use complementary terrestrial repeaters.<sup>4</sup> The rulemaking proceeding to establish operating parameters for

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<sup>1</sup> 47 C.F.R. § 1.113.

<sup>2</sup> See XM Radio, Inc., Application for Special Temporary Authority to Operate Satellite Digital Audio Radio Service Complementary Terrestrial Repeaters, *Order and Authorization*, DA 01-2172 (rel. September 17, 2001). ("XM STA Order").

<sup>3</sup> See Emergency Motion for Stay and Petition for Reconsideration of STA filed September 28, 2001 by the Wireless Communications Association International, Inc.; and Opposition to Motion for Stay, filed October 5, 2001 and Opposition to Petition for Reconsideration filed October 9, 2001 by XM Radio, Inc.

<sup>4</sup> Establishment of Rules and Policies for the Digital Audio Radio Service in the 2310-2360 MHz Band, *Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 5754, 5810 (1997).

repeater stations remains pending.<sup>5</sup> Thus, to enable XM Radio to begin offering SDARS to the public, the Bureau authorized XM Radio to operate its complementary terrestrial repeater network on a temporary basis subject to certain conditions. One such condition is that XM Radio must immediately reduce the power level, or if necessary, cease operation of any repeater that causes interference to a WCS, MDS or ITFS authorized station upon receipt of a written, descriptive notification from a WCS, MDS or ITFS licensee identifying the specific source of interference.<sup>6</sup> To assist in resolving immediate interference problems to facilities already in operation, XM Radio is required to provide the name and phone number of a contact person available to all WCS licensees and WCA prior to commencing operations, that is available on a continuous basis to receive reports of actual interference and take immediate corrective action.<sup>7</sup>

3. The Bureau also noted that it expected SDARS and WCS licensees to cooperate during the coordination process and exchange information necessary to mitigate the potential for interference to WCS licensees' facilities that were deployed but not yet operating. To facilitate coordination, the STA requires XM Radio to make available to WCS licensees and the Commission, upon request, the locations and technical parameters of all repeaters operating pursuant to the STA, including those operating at or below 2 kW EIRP.<sup>8</sup> In addition, a point of contact requirement was established to facilitate immediate SDARS action to eliminate actual interference to an operational WCS, MDS or ITFS facility.

4. The purpose of these conditions is to prevent interference to WCS, MDS and ITFS licensed facilities, and through an established point of contact, to resolve immediately any interference that may arise as a result of XM Radio's use of terrestrial repeaters. Consequently, we believe that cooperation between all potentially affected licensees is necessary and that MDS and ITFS licensees should be included in the exchange of information. Accordingly, we modify the *XM STA Order* to require XM Radio to provide information about its low power terrestrial repeaters, as specified below, to MDS and ITFS licensees in addition to the WCS licensees.<sup>9</sup> We also maintain the requirement that XM Radio provide its contact information to WCA, as originally conditioned.

5. We reiterate that any actions taken as a result of the STA are at XM Radio's own risk. Nothing in the STA or this Order shall prejudice the outcome of the final rules adopted by the Commission in IB Docket 95-91.

6. Accordingly, IT IS ORDERED, that pursuant to Sections 1.113 and 0.261 of the Commission's rules, 47 C.F.R. §§ 1.113 and 0.261, that the Special Temporary Authorization granted to

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<sup>5</sup> *Id.*

<sup>6</sup> *XM STA Order* at para. 14.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> In requiring the disclosure of this information to WCS licensees, the Bureau noted that it would be reasonable for XM Radio to enter into a commercially reasonable non-disclosure agreement with the licensees seeking access to information on XM Radio's repeater locations. This also applies to the MDS and ITFS licensees, as well as the expectation that MDS and ITFS licensees requesting such information from XM Radio would give a similarly prompt and reasonable response to a request from XM Radio for relevant information regarding the location and technical parameters of the licensees' MDS and ITFS stations. See *XM STA Order* at note 30.

XM Radio, Inc. on September 17, 2001 is modified to include the following conditions:

XM Radio must 1) make available to MDS and ITFS licensees, and to the Commission, upon request, the locations and technical parameters of all repeaters operating pursuant to this STA, including those operating at or below 2 kW EIRP, and 2) provide the name and telephone contact number of a point of contact to WCA prior to commencing operation, that will be available on a continuous basis (*i.e.*, 24 hours a day, 7 days a week) to receive reports of actual interference and to take immediate action to correct it.

7. IT IS FURTHER ORDERED, that the Petition for Reconsideration and Emergency Motion for Stay filed by the Wireless Communications Association International, Inc. on September 28, 2001 are dismissed as moot.

8. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson  
Chief, International Bureau